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ABSTRACT

Intended for use by cooperative education program coordinators, this module deals with the rights of cooperative education program enrollees as they are specified by Michigan minimum wage legislation. Specifically, the module deals with two Michigan laws--Act 154 of Public Act of 1964, as amended and Act 390 of Public Act of 1978. Designed to be a self-paced instructional package, the module contains a pre-test, answer key, scoring instructions, a reinforcement exercise, case studies with appropriate answers, and additional agency and printed resources. (MN)

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MICHIGAN MINIMUM WAGE

Act 154, PUBLIC ACT OF 1964, AS AMENDED

Act 390, PUBLIC ACT OF 1978.

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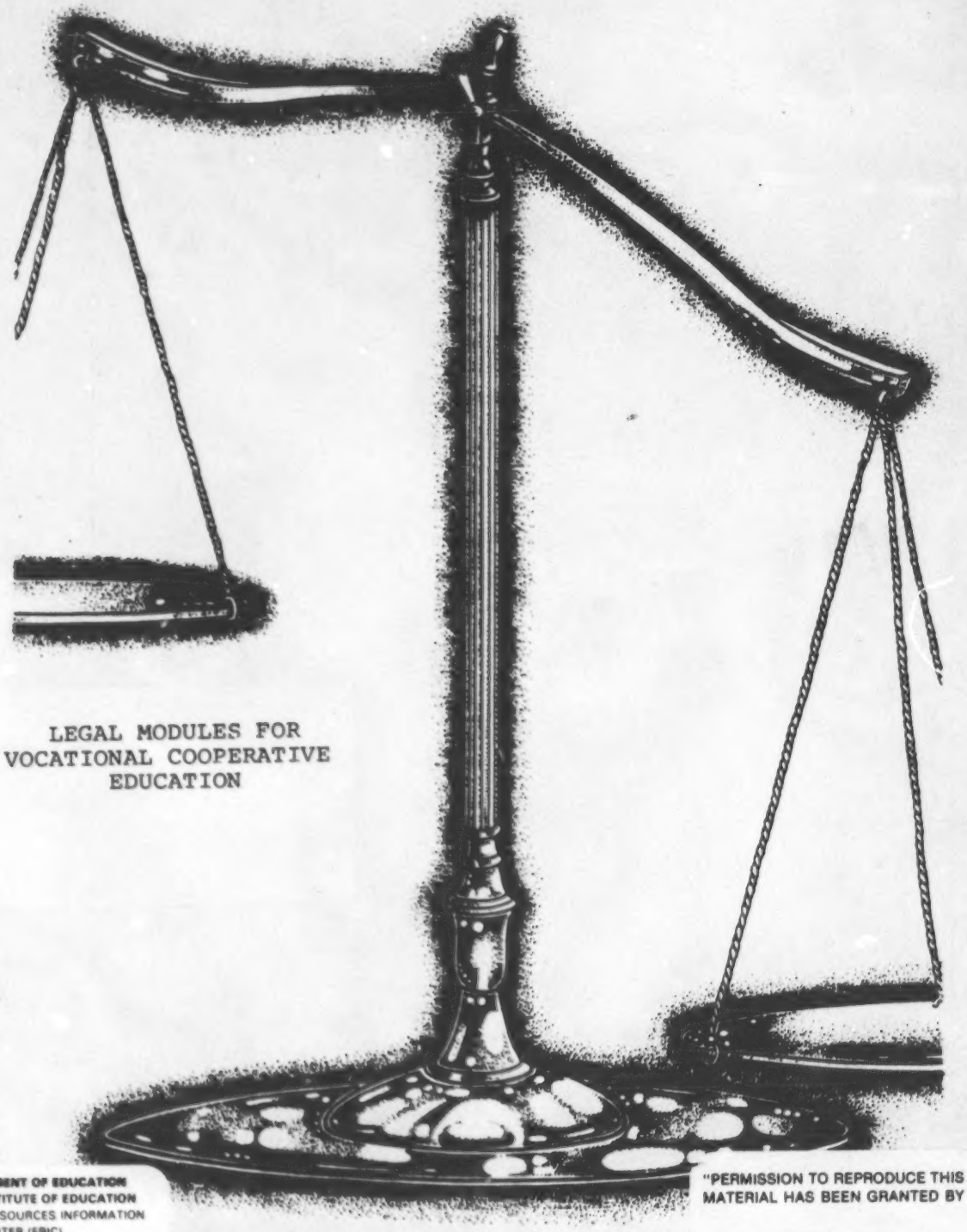

LEGAL MODULES FOR
VOCATIONAL COOPERATIVE
EDUCATION

CG 034 165

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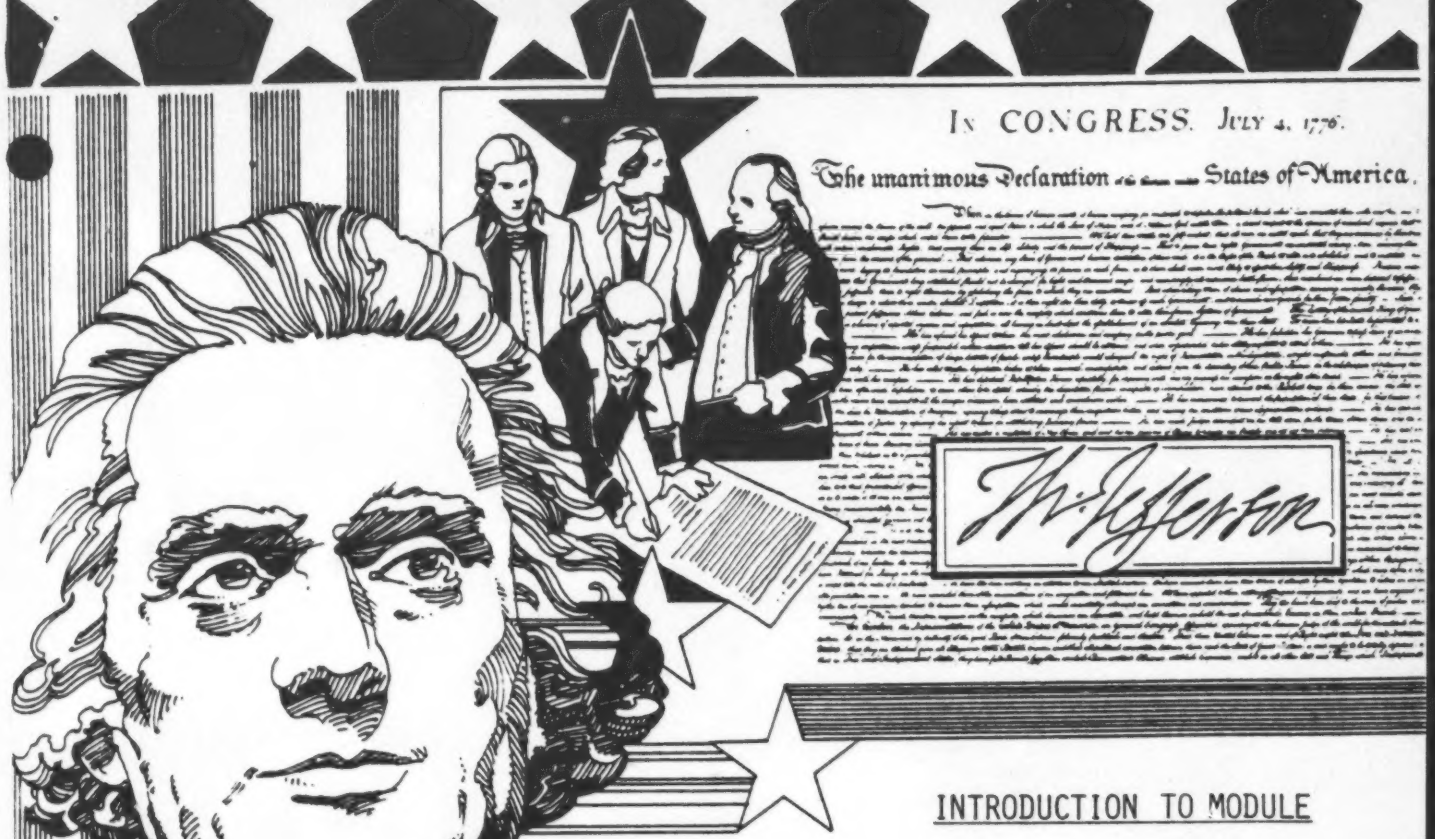
NOTE: This Module is not intended to serve as an in-depth or legally definitive analysis concerning the law, rule or regulation discussed. It does, however, represent an overview and an administrative opinion of the writers and may be subject to change or further clarification.



INTRODUCTION TO MODULE

OBJECTIVES

1. The coordinator will be able to describe the law, rule or regulation to students, employers, teachers, parents/guardians and administrators.

2. The coordinator will apply the law, rule or regulation to specific cooperative education training situations.

EXEMPTION TEST

A basic concept of competency-based education is to provide instruction that will meet individual needs and abilities. The first step is to determine if you already have the knowledge, skills, or judgments in question. So, you're being asked to take an Exemption Test. The Exemption Test is self-paced.

DIRECTIONS

1. The Exemption Test assesses your knowledge. It is administered before instruction; passage exempts you from the module.

2. Use the Exemption Test before working through the module.

EXEMPTION TEST

Directions: Read the statement below and mark with an (X) those statements which are true in reference to the Michigan Minimum Wage Laws, Act 390, Public Act of 1978 and Act 154, Public Act of 1964.

_____1. The Wage-Hour Division of the Michigan Department of Labor has the authority to take assignment of wage claims and to initiate collection of wages for students subject to the provisions of the Michigan Minimum Wage Laws.

_____2. The Wage-Hour Division of the Michigan Department of Labor charges a $1.00 fee for its services.

_____3. The Michigan Minimum Wage requires employers to maintain a separate itemization of tip, lodging and meal credits taken against the minimum wage.

_____4. Under the Michigan Minimum Wage Laws, employers can deduct up to 25% from the minimum wage for tips, meals, or lodging received by a covered employee.

_____5. Employers can deduct from the wages of covered employees the amount of 25% in tips, lodging or meals or can spread the 25% deduction across tips, lodging and meals if all three apply.

_____6. Cooperative education students must voluntarily agree in writing that a deduction can be taken from their wages.

_____7. Any employer whose operation involves tips falls under State of Michigan jurisdiction, which supercedes federal law in that area.

_____8. Wages to cooperative education students must be paid at monthly intervals. Wages may be paid more often; it is the discretion of the employer.

_____ 9. If a cooperative education student-learner quits a job, an employer can hold wages 5 days after demand before payment has to be made.

_____10. If a cooperative education student is fired from the training station, the employer must pay the student within five days.

_____11. If a cooperative education student is required by an employer to work in excess of 40 hours in one week or for hours more than 8 hours in one day, the employer must pay time and one-half.

_____12. If a cooperative education student quits without notice, the employer can withhold wages.

_____13. If an employer discharges a cooperative education student-learner, the employer does not have to pay severance pay.

_____14. A cooperative education student learner obtains Christmas Day as a holiday. The employer is required to pay the cooperative education student-learner for the holiday.

_____15. Cooperative education student-learners are qualified by the Payment of Wages Law to receive paid vacations and paid sick leave days.

_____16. Employers must guarantee that cooperative education student-learners working as waiters and waitresses earn at least the minimum wage of $3.35 an hour.

_____17. An employer can hire a cooperative education student-learner for tips if they can assure the student-learner $3.35 an hour.

_____18. The minimum wage of $3.35 an hour is required for anyone 18 and older and also for cooperative education students 16 and 17 working where alcohol is sold and the sale of food constitutes 50% of the gross receipts.

_____19. Buspersons, hosts or hostesses can pool tips, but kitchen personnel can't receive any portion of the tips.

_____20. At Michigan's more exclusive resorts, more than the maximum deduction of 25% can be withheld from cooperative education student-learner salaries.

_____21. A cooperative education student working in a restaurant can be charged for the bill a customer leaves if the employee has authorized this deduction in writing and the amount of the deduction does not reduce wages below the minimum wage.

_____22. Employers can charge cooperative education student-learners for uniform rental, laundering or fine them for a missing button.

_____23. Cooperative education students can be asked to furnish their own uniform if all that is required is a common outfit like a white shirt or black skirts or slacks.

_____24. Federal and state law makes it illegal for employers to deduct cash register shortages or losses from the wages of cooperative education student-learners if by doing so the wages fall below the minimum wage of $3.35 an hour.

_____25. Deductions can be made from a cooperative education student-learner's overtime pay, if the customer pays a bill with a bad check.

_____26. No deductions may be made from a cooperative education student learner's wages without "full, free and written consent of the student." This written consent must be obtained for each pay period in which a deduction is made.

ANSWER KEY

THE CORRECT ANSWERS FOR THE MICHIGAN MINIMUM WAGE LAWS ARE AS FOLLOWS:

_____1. True

_____2. False. All services of the Wage Hour Division are performed without charge.

_____3. True

_____4. True

_____5. True

_____6. True

_____7. True

_____8. False. In general, wages must be paid at semi-monthly intervals, but may be paid more often, at the discretion of the employer.

_____9. False. The law requires that payment of wages be made the next scheduled payday.

_____10. False. The law requires that payment of wages be made within 4 days of the demand for payment.

_____11. False. Michigan law requires payment of time and one-half for overtime for covered employees over 40 hours.

_____12. False. The employer may not withhold any part of a cooperative education student-learner's pay as a penalty. The employer must pay the cooperative education student-learner for time actually worked.

_____13. True

_____14. False. The Payment of Wages Law does not require the employer to pay a cooperative education student-learner for vacation, holiday or sick leave.

_____15. False. The Payment of Wages Law does not require the employer to pay a cooperative education student-learner for vacation, holiday or sick leave.

_____16. False. Waiters, waitresses are not covered by the Michigan Minimum Wage Law unless they work with alcoholic beverages.

_____17. False. Hiring someone to wait tables for only tips is against the law. A wage rate must be established.

_____18. True

_____19. False. Tips can be pooled in any manner.

_____20. False. Employers can't charge whatever they feel like for room and board. It is limited by law. No matter how good the food is or how plush the lodging, the manimum deduction including tip allowances can not exceed 25 percent of the minimum wage.

_____21. True

_____22. False. Employers can not charge workers for uniform rental, laundering or fine them for a missing button.

_____23. True

_____24. True

_____25. False. Deductions can not be made from overtime pay unless the cooperative education student-learner approves it in writing.

_____26. True

SCORING INSTRUCTIONS

25-26 Correct.....You know the Michigan Minimum Wage Laws.

23-24 Correct.....You have excellent knowledge about the Michigan Minimum Wage Laws, but you may want to read the next section, Acquiring Knowledge About the Michigan Minimum Wage Laws.

21-22.....You did fairly well; you should read more about the Michigan Minimum Wage Laws.

1-20 Correct.....Read on, you must learn more about the Michigan Minimum Wage Laws.

REINFORCEMENT EXERCISE

DIRECTIONS: Read and answer the questions and compare your answer with the response given on the left hand margin. Place a blank sheet of paper over the left hand margin. Good luck.

ACQUIRING KNOWLEDGE ABOUT MICHIGAN MINIMUM WAGE LAWS

ANSWERS

E

1. Which of the following apply to the Michigan Minimum Wage Law?

   A. Wage earners seeking assistance from the Michigan Department of Labor must file a formal complaint
   B. The initiation of proceedings to enforce the claim for wages shall be at the discretion of the Department of Labor
   C. A wage earner must furnish witnesses deemed necessary to enforce a claim
   D. The Department of Labor acts as a trustee for the wage earner for any wages collected
   E. All of the above

E

2. Which of the following should you contact in collecting wages?

   A. Bureau of Employment Standards, 7150 Harris Drive, Box 30015, Lansing, MI 48909
   B. Bureau of Employment Standards, 1200 6th Street, 15th Floor, Detroit, MI 48226
   C. Wage Hour Division, Michigan Department of Labor, 100 Roosevelt, Traverse City, MI 48912
   D. C and B
   E. A and B

E

3. How much does the Wage Hour Division charge for its services?

   A. $1.00
   B. $2.00
   C. $3.00
   D. $5.00
   E. Does not charge

C

4. The Wage and Hour Division of the Michigan Department of Labor has the following authority?

   A. The authority to take assignment of wage claims
   B. The authority to initiate collection of wages for persons deemed financially unable to employ an attorney
   C. A and B

ACQUIRING KNOWLEDGE ABOUT MICHIGAN MINIMUM WAGE LAWS

ANSWERS

B

5. How often must an employer pay a cooperative education student?

   A. Every week
   B. Every two weeks
   C. Every month

D

6. How long can an employer hold wages, if a cooperative education student quits a job?

   A. Payment of wages be made within 1 day after demand for payment
   B. Payment of wages be made within 3 days after demand for payment
   C. Payment of wages be made within 5 days after demand for payment
   D. Next regularly scheduled pay day

D

7. If a cooperative education student is fired from the training station, how soon must the employer pay?

   A. The law requires that payment of wages be made immediately
   B. The law requires that payment of wages be made within 3 days
   C. The law requires that payment of wages be made within 5 days
   D. The law requires that payment of wages be made within 4 days

A

8. Can an employer make a deduction from a cooperative education student learner's pay for an indebtedness such as a cash advance?

   A. Yes, an employer can make a deduction, with a signed authorization
   B. No, an employer could not make this type of deduction

ANSWERS

B

9. If a cooperative education student-learner authorizes another person to collect his/her wages, does an employer have to release those wages to that person?

   A. An employer can not release wages to a person designated by the cooperative education student-learner
   B. An employer can release wages to any person designated by the cooperative education student-learner, but would not be in violation of the Statute for failure to do so

A

10. Does the Payment of Wages Law protect the cooperative education student-learner in farm labor?

   A. Yes, the law includes all farm laborers.
   B. No, the law has not been amended to include all farm laborers except those that are paid daily on a piece rate basis

A

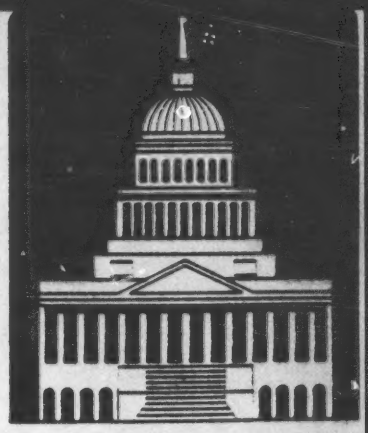
11. Does the Michigan Payment of Wages Law protect cooperative education students employed in domestic labor?

   A. Yes
   B. No

A

12. Is an employer required to pay time and one-half for hours worked in excess of 40 hours in one week?

   A. Michigan law requires payment of time and one-half for overtime
   B. Michigan law does not require payment of time and one-half for overtime, unless the employer agreed to do so at the time of hire



ANSWERS

B

13. If a cooperative education student-learner quits without notice, can the employer withhold part of the student's wages as a penalty?

    A. Yes, the employer can withhold any part of pay as a penalty
    B. No, the employer may not withhold any part of the cooperative education student-learner's pay as a penalty

A

14. If an employer discharges a cooperative education student-learner, does the employer have to pay severance pay?

    A. The Payment of Wages Law does not require that the employer pay severance pay
    B. The Payment of Wages Law requires that the employer pay severance pay

E

15. An employer is required to pay a cooperative education student-learner the following?

    A. Paid vacations
    B. Paid holidays
    C. Paid sick days
    D. All of the above
    E. None of the above

C

16. Employers in Michigan can deduct up to?

    A. 15% of the minimum wage for tips, lodging, and and meal credits
    B. 20% of the minimum wage for tips, lodging, and meal credits
    C. 25% of the minimum wage for tips, lodging, and meal credits
    D. None of the these

ANSWERS

A

17. The hourly rate, with the 25% reduction from a $3.35 minimum wage is?

A. $2.5125
B. $2.4125
C. $2.3125

D

18. Which of the following applies to the Michigan Minimum Wage?

A. 25% can be deducted from a student-learner's wage for tips
B. 25% can be deducted from a student-learner's wage for lodging
C. 25% can be deducted from a student-learner's wage for meals
D. 25% can be deducted from a student-learner's wage for tips, lodging, and meals
E. None of the above

C

19. Rules covering tip pooling are as follows?

A. Details of pooling arrangements must be kept of file
B. Employers must get voluntary consent in writing from the student-learner
C. Both A and B
D. None of the above

I

20. Records on the minimum wage kept by the employer must include:

A. Name, home address, date of birth
B. Occupation which employed, total daily hours worked, computed to the nearest unit of 15 minutes
C. Total hours worked in each pay period
D. Total hours worked in each work period when the work period does not coincide with the pay period
E. Total hourly, daily or weekly basic wage
F. Total wages paid each pay period
G. Itemization of all deductions made each pay period
H. Separate itemization of all credits for meals, tips and lodging against the minimum wage taken each pay period, if any
I. All of the above

ANSWERS

B 21. Any Michigan employer whose operation involves tips falls under?

A. Federal jurisdiction
B. State jurisdiction

B 22. If the minimum wage is $3.35 an hour, student-learners who are 16 and 17 working where alcohol is sold should obtain what wage?

A. $2.5125 as an hourly wage
B. $3.35 an hour

E 23. Unless the employee authorizes a deduction in writing and the amount of the deduction, a restaurant employee cannot be charged for?

A. Dish breakage
B. Lost or broken tools
C. Required to pay when a customer walks out on a bill
D. Required to pay when a customer pays a bill with a bad check
E. All of the above

B 24. Federal and state law makes it _____ for employers to deduct dash register shortages or losses from the wages of workers if by doing so the wages of workers fall below the minimum wage of $3.35 an hour?

A. Legal
B. Illegal

B 25. Deductions in wages?

A. Can be made from overtime pay if the wage falls below $3.35
B. Cannot be made from overtime pay if the wage falls below $3.35

A 26. No deductions may be made from an employee's wages without full, free and written consent of the employee and the written consent must be obtained for each pay period in which a deduction is made?

A. True
B. False

You be the judge...

CASE STUDIES

1. Kevin Welch was interviewed for a part time cooperative education job and was hired. At the interview Kevin was informed that he would be paid $3.50 an hour. This rate of pay was also indicated on the training agreement. For the entire year Kevin was paid $3.35 and did not question this rate of pay. At the end of the school year Kevin's parents demanded $.15 for each hour Kevin had worked. Does the employer have to pay?
   Eldon Horton, Greenville

2. Mary Margaret Grazelli worked as a cooperative education student in a chain service station which sold gasoline but made no repairs of autos. A half hour prior to closing a customer approached and asked for help in starting his auto which had a dead battery. Mary Margaret informed the customer that their station did not service autos. The customer persisted and convinced Mary Margaret to follow the customer home. At the customer's home, Mary Margaret was encouraged to use her jumper cables and auto to jump the stalled car. The battery exploded and so did the customer. The next day the customer informed the service station of the battery explosion and the battery was deducted from Mary Margaret's pay check. The company reasoned that Mary Margaret was representing the company as she was approached during working hours and was wearing a company uniform. As the cooperative education coordinator what would you suggest to Mary Margaret?
   Bill Koogan, River Rouge

You be the judge...

3. Bill Chung was employed at a travel agency. At the end of 2 weeks, he was told that he would not be paid because he was learning for that period. What should the coordinator do?
   Carl Woloszyk/Jack Humbert

4. Betty Ramirez, a cooperative education student-learner worked for five months at an accounting firm. Betty lied to the employer about a personal matter and was dismissed from the job. The training sponsor maintained that she needed absolute honesty in the accounting field. The student claimed that the employer withheld a week's pay for the incident. Betty's pay stubs did not agree with payroll records. If you were the coordinator how would you handle this situation?
   Elaine Tasson, Clawson High School

5. Dick Paderwiski is employed as a cooperative education student-learner for the local school system. Dick is paid the federal minimum wage. In January the federal minimum wage will be raised. Dick was told that he will not receive the increase, that he can be paid less than the federal minimum wage. As the cooperative education coordinator what will you tell Dick?
   Dianne Schubot, Carl Brablec High School

You be the judge...

6. Jan VanDuren worked as a cooperative education student-learner in a family restaurant. The employer required Jan not to punch in until the restaurant section that she works in is busy. Some days when business is slow, Jan waits for over an hour before working. Also, on slow evenings, Jan is sent home before she can begin working. As a cooperative education coordinator what would you tell Jan?
   Harold Kransi, Calhoun Area Vocational Center

7. A cooperative education training station would like to pay a student-learner 50% less than the minimum wage. Justification for this wage is as follows: 25% reduction for tips and 25% sub-minimum wage for a cooperative education student-learner. As a cooperative education coordinator what would you tell the employer?
   Jack Humbert/Carl Woloszyk

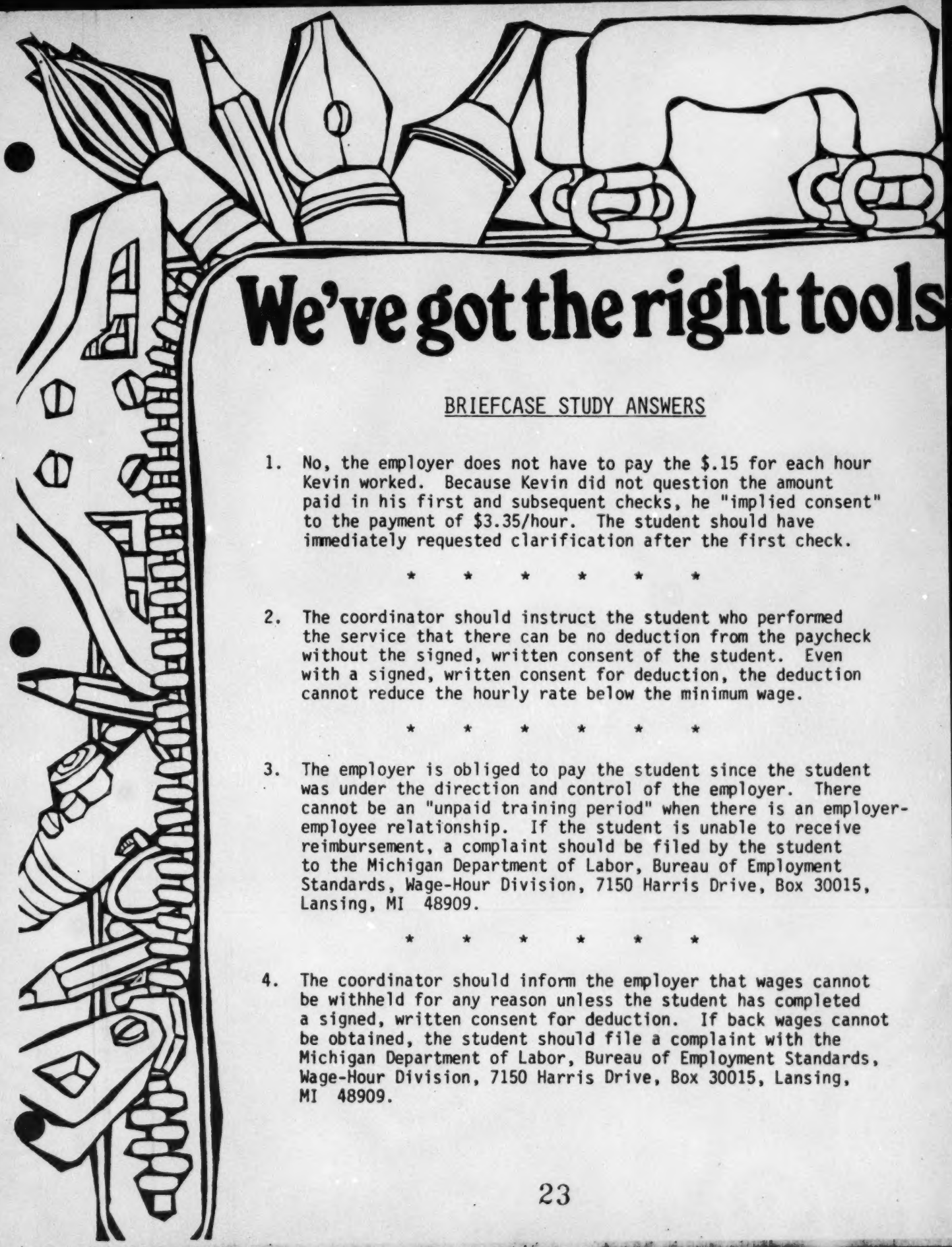
8. At the beginning of the school year two student-learners were employed as nursing assistants in a doctor's office. They were terminated after two weeks when two former employees returned to work. The two student-learners were not paid. Numerous calls by the coordinator, parents, and students did not produce payment. According to the supervisor in the doctor's office, "the students did not do any work because the office personnel were too busy to train the students." Should the students be paid for reporting each day as assigned?
   Mary Jamerson, Highland Park

You be the judge...

9. Jim O'Leary works in a cooperative education training station which is located in a bowling alley. This bowling alley has a bar/restaurant. During the work period the bar is open but separated from the child care center. The employer does not want to pay the minimum wage because the student does not deal with liquor in any way. However, the student does care for the children in a banquet area which does have liquor. Should the student be paid the minimum wage?
Elaine Witters, Sanilac Career Center

10. Jim Hannah, a cooperative education student-learner worked as a service attendant as a service station. One night, Jim left the gas pumps on after closing the station. Visitors used the pumps during the night for $60.75. This amount was deducted from Jim's paycheck. Also Jim was fired. Can this deduction be made?
Robert Pawlicki, Dwight Eisenhower Sr. High School, Utica

11. Casey Ralston worked as a waiter during his junior year in cooperative education. His evaluations were excellent. During this time Casey was paid sub-minimal wages, 25% less than the minimum wage. When Casey reached 18 he was dismissed for an attitude problem. This later happened to another student-learner. What should the coordinator do?
Jerry Beebe, Hartland High School



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BRIEFCASE STUDY ANSWERS

1. No, the employer does not have to pay the $.15 for each hour Kevin worked. Because Kevin did not question the amount paid in his first and subsequent checks, he "implied consent" to the payment of $3.35/hour. The student should have immediately requested clarification after the first check.

* * * * * *

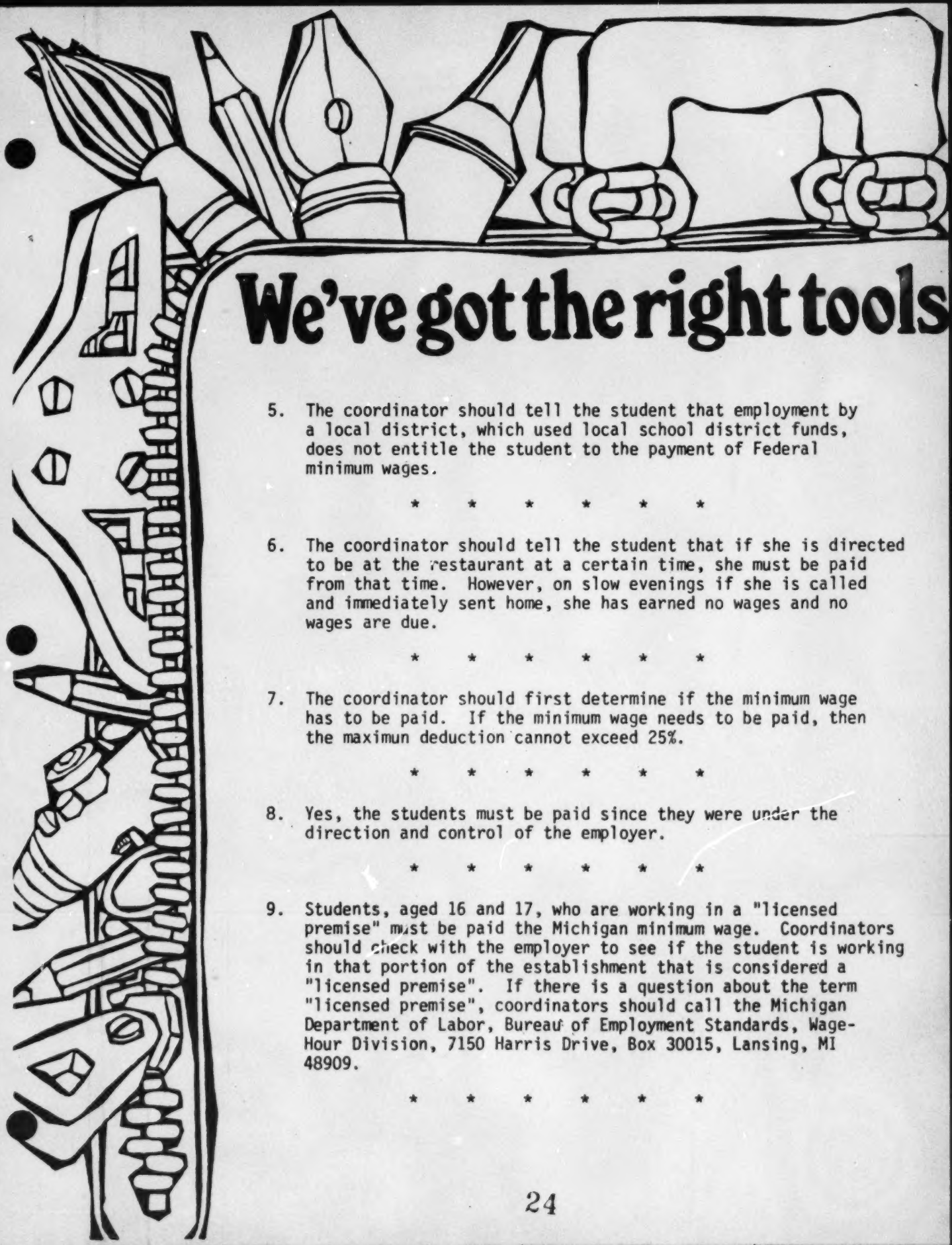
2. The coordinator should instruct the student who performed the service that there can be no deduction from the paycheck without the signed, written consent of the student. Even with a signed, written consent for deduction, the deduction cannot reduce the hourly rate below the minimum wage.

* * * * * *

3. The employer is obliged to pay the student since the student was under the direction and control of the employer. There cannot be an "unpaid training period" when there is an employer-employee relationship. If the student is unable to receive reimbursement, a complaint should be filed by the student to the Michigan Department of Labor, Bureau of Employment Standards, Wage-Hour Division, 7150 Harris Drive, Box 30015, Lansing, MI 48909.

* * * * * *

4. The coordinator should inform the employer that wages cannot be withheld for any reason unless the student has completed a signed, written consent for deduction. If back wages cannot be obtained, the student should file a complaint with the Michigan Department of Labor, Bureau of Employment Standards, Wage-Hour Division, 7150 Harris Drive, Box 30015, Lansing, MI 48909.



We've got the right tools

5. The coordinator should tell the student that employment by a local district, which used local school district funds, does not entitle the student to the payment of Federal minimum wages.

* * * * * *

6. The coordinator should tell the student that if she is directed to be at the restaurant at a certain time, she must be paid from that time. However, on slow evenings if she is called and immediately sent home, she has earned no wages and no wages are due.

* * * * * *

7. The coordinator should first determine if the minimum wage has to be paid. If the minimum wage needs to be paid, then the maximun deduction cannot exceed 25%.

* * * * * *

8. Yes, the students must be paid since they were under the direction and control of the employer.

* * * * * *

9. Students, aged 16 and 17, who are working in a "licensed premise" must be paid the Michigan minimum wage. Coordinators should check with the employer to see if the student is working in that portion of the establishment that is considered a "licensed premise". If there is a question about the term "licensed premise", coordinators should call the Michigan Department of Labor, Bureau of Employment Standards, Wage-Hour Division, 7150 Harris Drive, Box 30015, Lansing, MI 48909.

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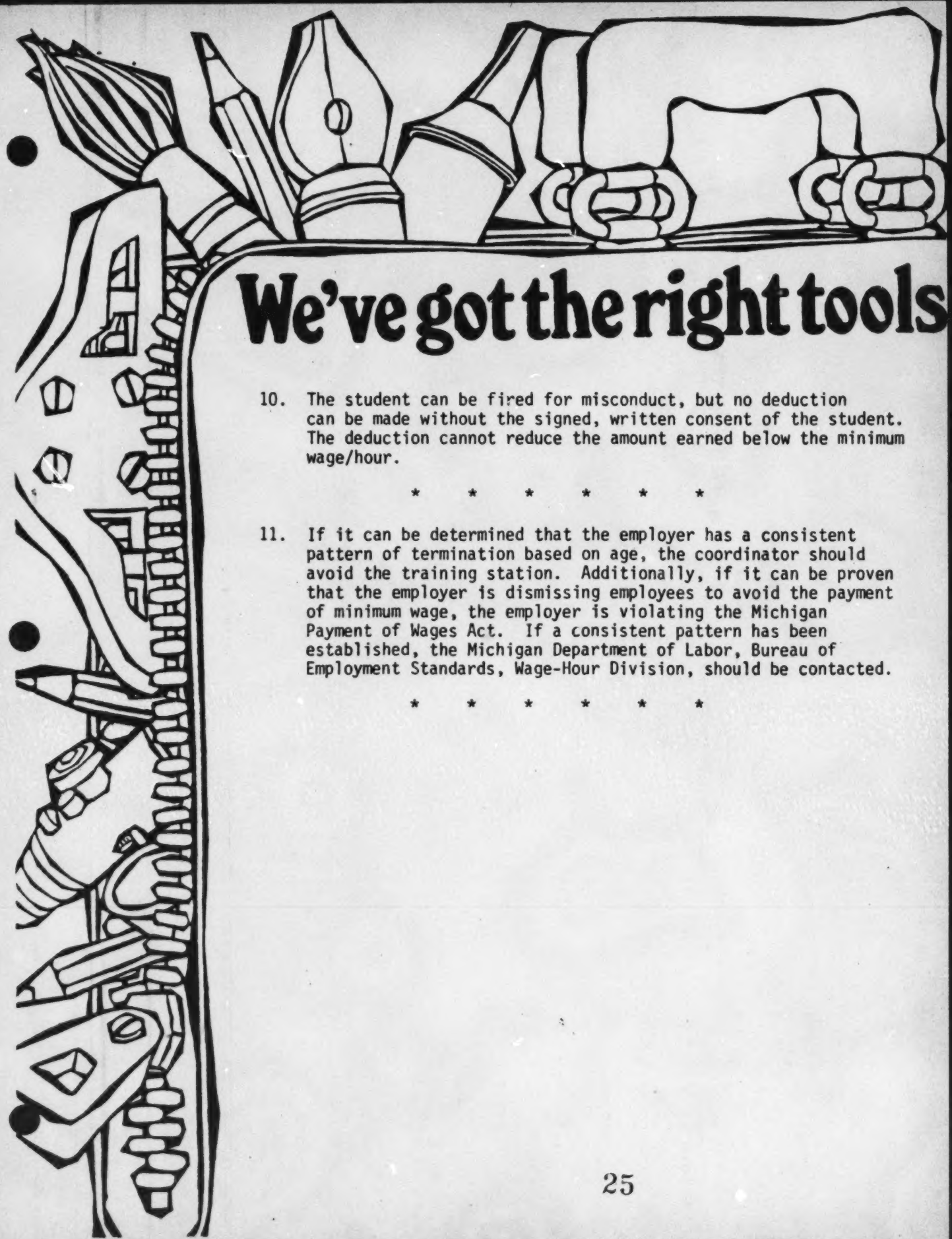

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10. The student can be fired for misconduct, but no deduction can be made without the signed, written consent of the student. The deduction cannot reduce the amount earned below the minimum wage/hour.

* * * * * *

11. If it can be determined that the employer has a consistent pattern of termination based on age, the coordinator should avoid the training station. Additionally, if it can be proven that the employer is dismissing employees to avoid the payment of minimum wage, the employer is violating the Michigan Payment of Wages Act. If a consistent pattern has been established, the Michigan Department of Labor, Bureau of Employment Standards, Wage-Hour Division, should be contacted.

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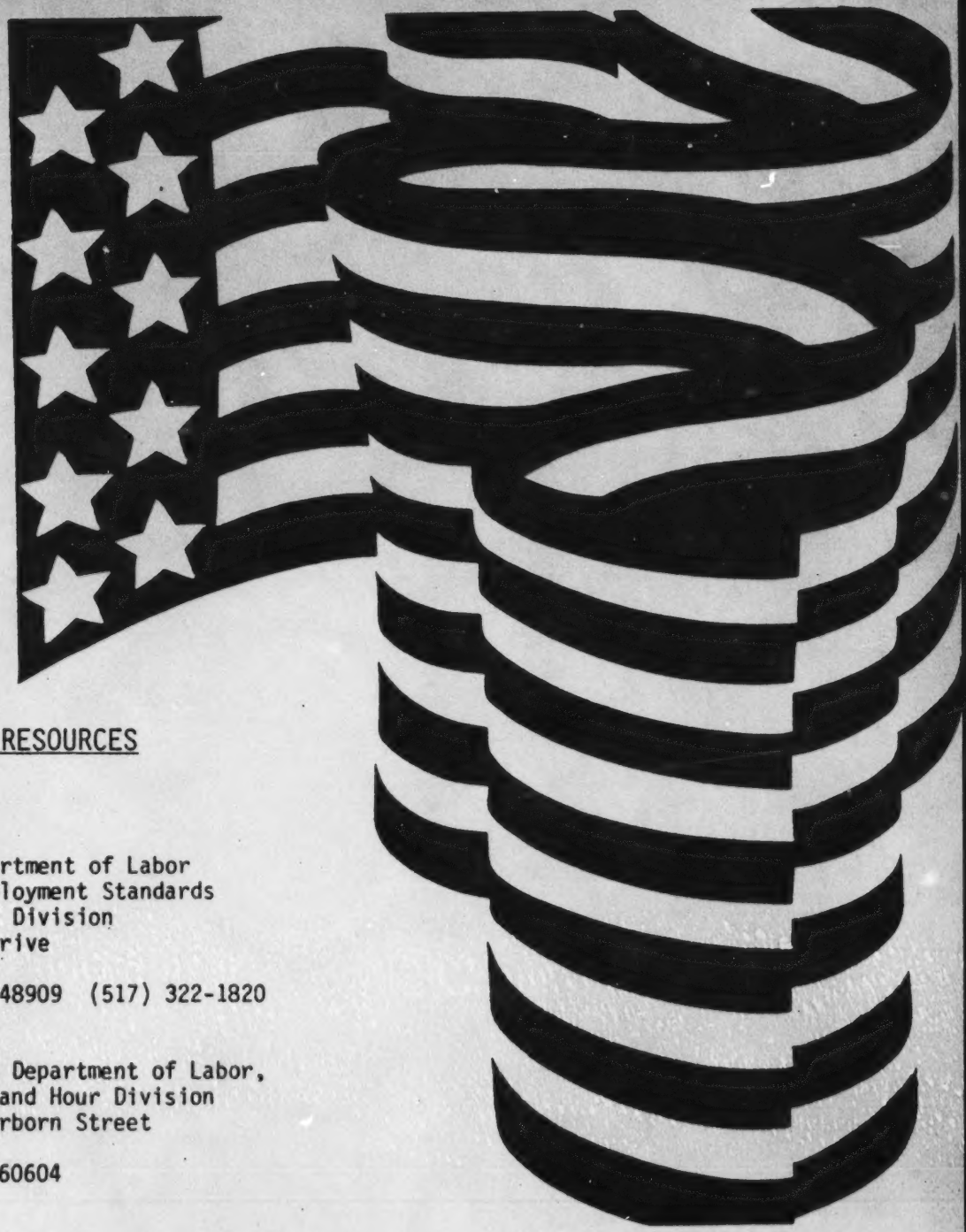
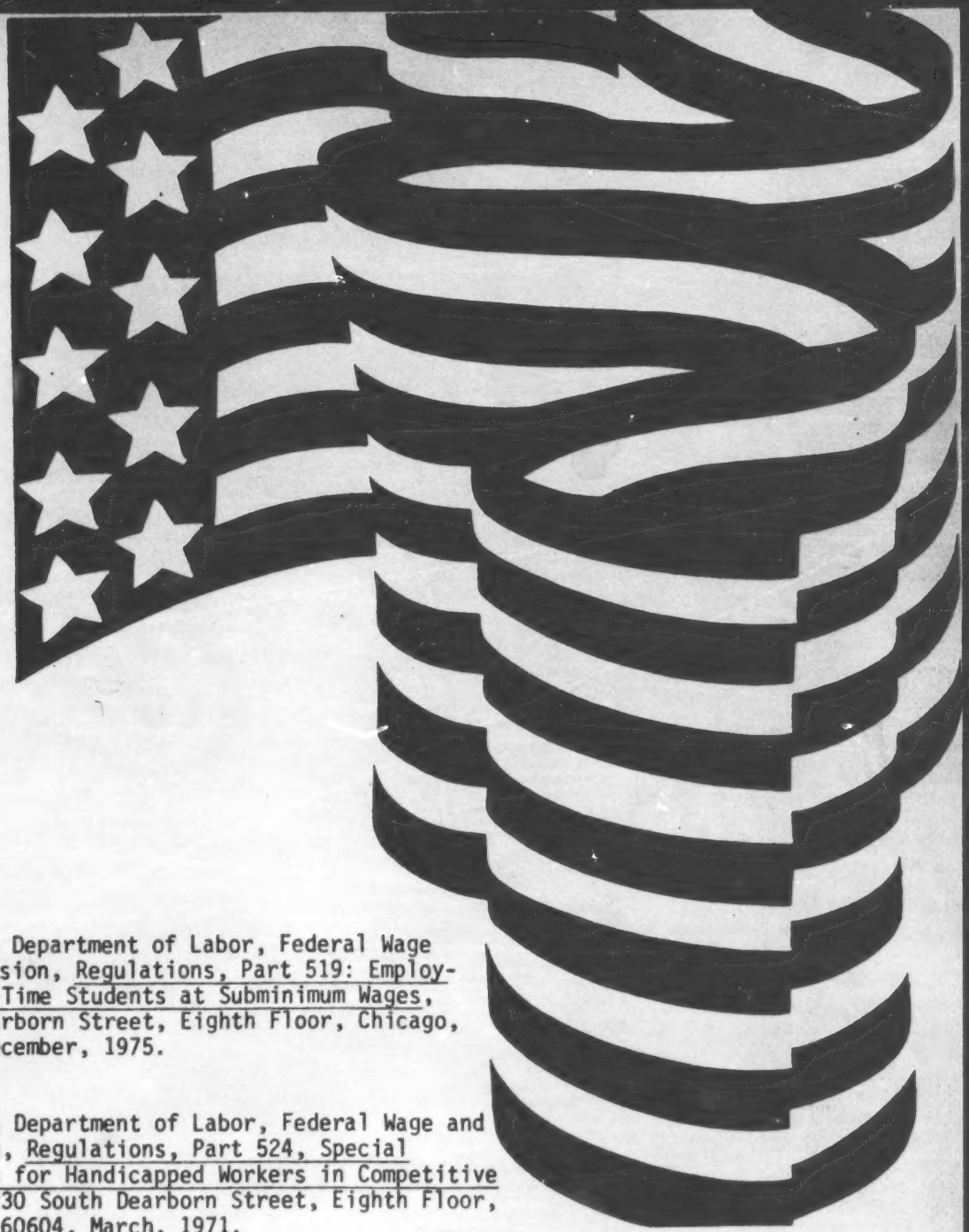


ADDITIONAL RESOURCES

AGENCIES

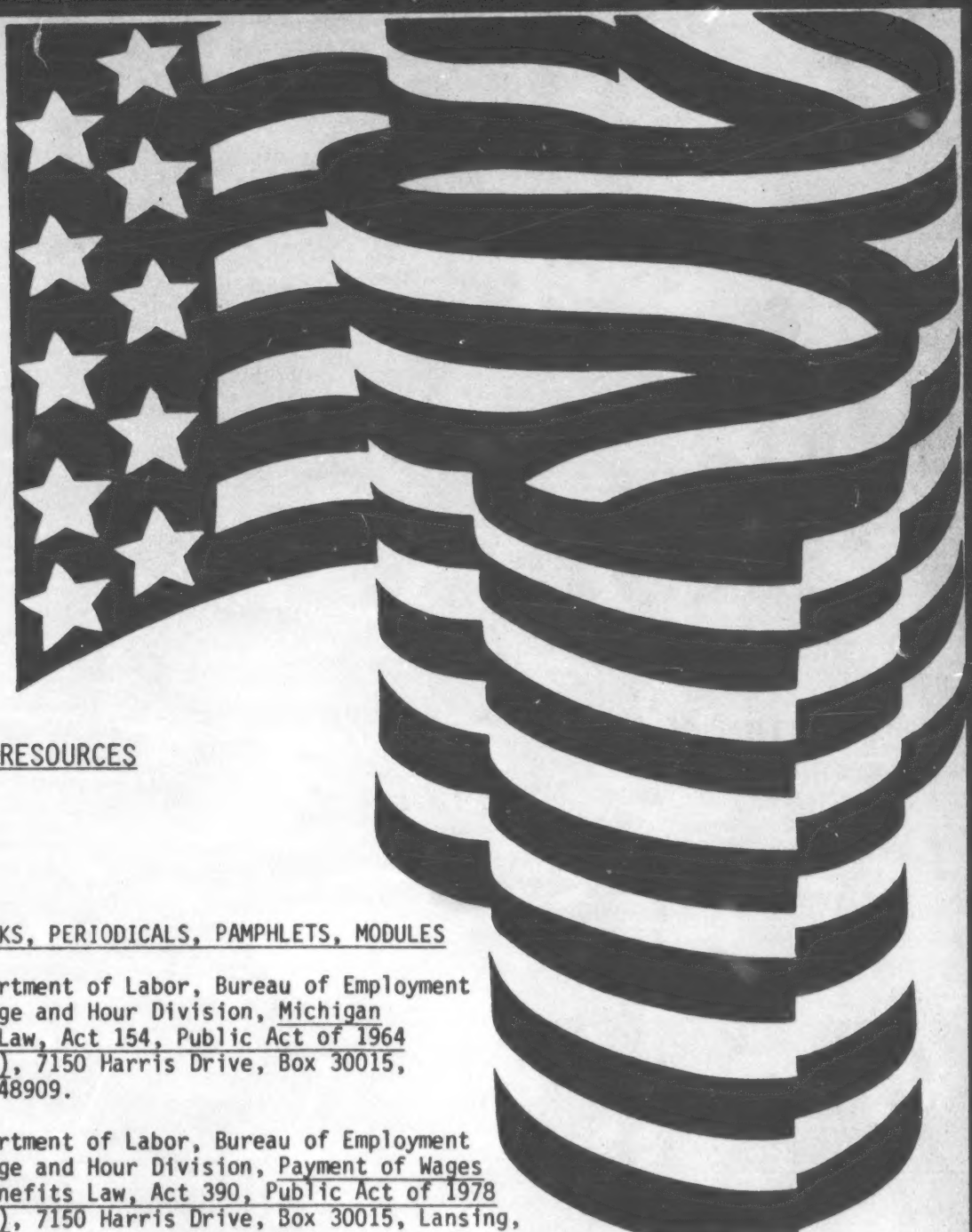
Michigan Department of Labor
Bureau of Employment Standards
Wage and Hour Division
7150 Harris Drive
Box 30015
Lansing, MI 48909 (517) 322-1820

United States Department of Labor,
Federal Wage and Hour Division
230 South Dearborn Street
Eighth Floor
Chicago, IL 60604



United States Department of Labor, Federal Wage and Hour Division, Regulations, Part 519: Employment of Full-Time Students at Subminimum Wages, 230 South Dearborn Street, Eighth Floor, Chicago, IL 60604, December, 1975.

United States Department of Labor, Federal Wage and Hour Division, Regulations, Part 524, Special Minimum Wages for Handicapped Workers in Competitive Employment, 230 South Dearborn Street, Eighth Floor, Chicago, IL 60604, March, 1971.



ADDITIONAL RESOURCES

REFERENCE BOOKS, PERIODICALS, PAMPHLETS, MODULES

Michigan Department of Labor, Bureau of Employment Standards, Wage and Hour Division, Michigan Minimum Wage Law, Act 154, Public Act of 1964 (MCLA 408.381), 7150 Harris Drive, Box 30015, Lansing, MI 48909.

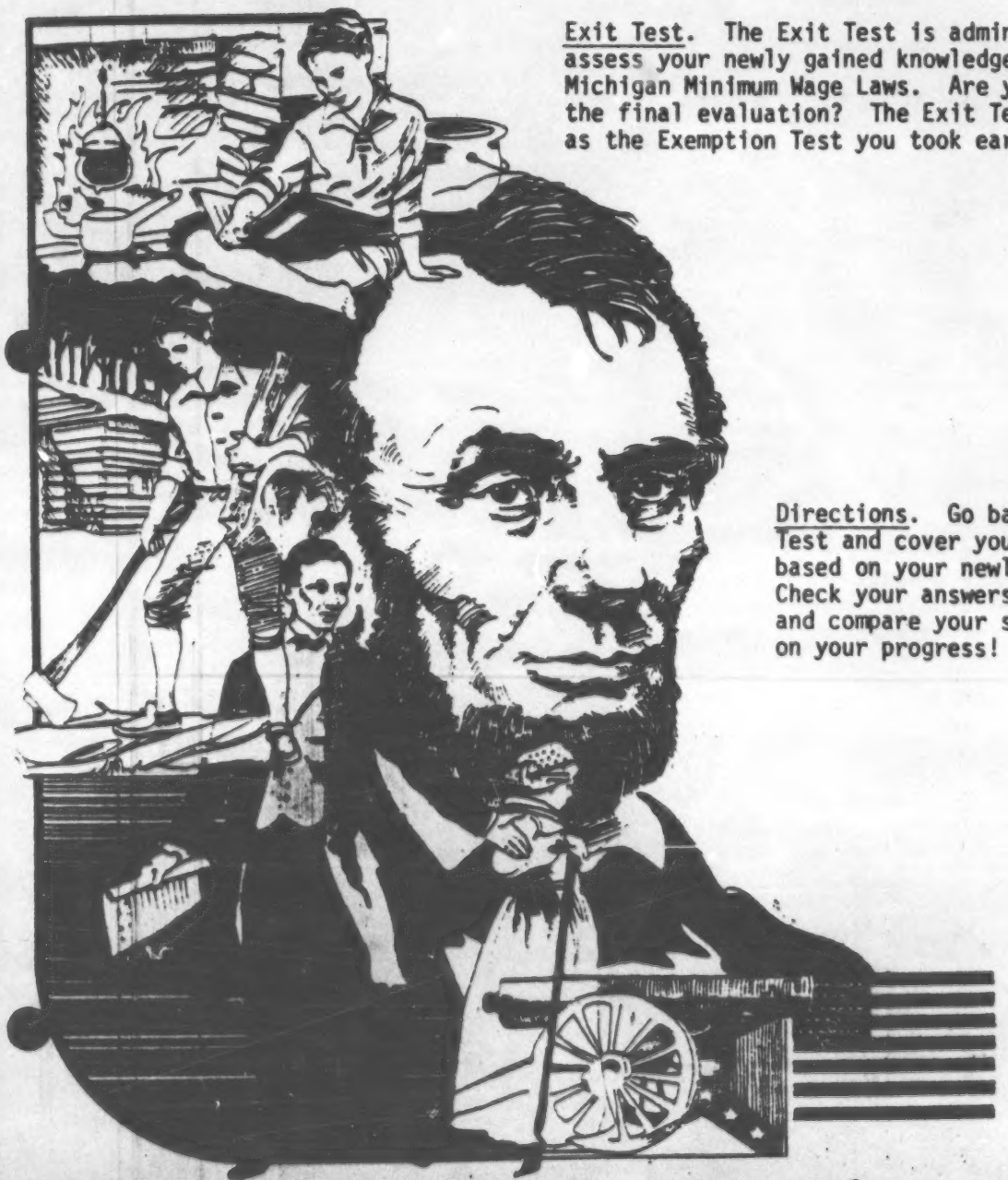
Michigan Department of Labor, Bureau of Employment Standards, Wage and Hour Division, Payment of Wages and Fringe Benefits Law, Act 390, Public Act of 1978 (MCLA 408.471), 7150 Harris Drive, Box 30015, Lansing, MI 48909.

United States Department of Labor, Federal Wage and Hour Division, Employment of Student-Learners, Code of Federal Regualtions, 230 South Dearborn Street, Eighth Fllor, Chicago, IL 60604.

United States Department of Labor, Federal Wage and Hour Division, Handy Reference Guide to the Fair Labor Standards Act, 230 South Dearborn Street, Eighth Floor, Chicago, IL 60604, 1981

EXIT TEST

MICHIGAN MINIMUM WAGE LAWS, ACT 390, PUBLIC ACT OF 1978;
ACT 154, PUBLIC ACT OF 1964



Exit Test. The Exit Test is administered to assess your newly gained knowledge about the Michigan Minimum Wage Laws. Are you ready for the final evaluation? The Exit Test is the same as the Exemption Test you took earlier. Good Luck.

Directions. Go back to the Exemption Test and cover your original answers based on your newly acquired knowledge. Check your answers with the Answer Key and compare your scores. Congratulations on your progress!

MICHIGAN STATE BOARD OF EDUCATION

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